

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION

AMBER SWINK	:	CASE NO.: 3:16-cv-00392
Plaintiff,	:	JUDGE WALTER H. RICE
vs.	:	
MONTGOMERY COUNTY BOARD OF COMMISSIONERS, et al.	:	
Defendants.	:	

**ANSWER OF DEFENDANTS MONTGOMERY COUNTY BOARD OF
COMMISSIONERS, MONTGOMERY COUNTY SHERIFF PHIL PLUMMER,
CAPTAIN JUDITH L. SEALEY, AND CAPTAIN CHUCK CROSBY TO PLAINTIFF'S
COMPLAINT**

In response to Plaintiff's Complaint, Defendants Montgomery County Board of Commissioners, Montgomery County Sheriff Phil Plummer, Captain Judith L. Sealey, Captain Chuck Crosby ("Montgomery County Defendants") state the following:

FIRST DEFENSE

1. The Montgomery County Defendants admit the allegations contained in Paragraph 1 of the Complaint.
2. The Montgomery County Defendants deny the allegations contained in Paragraph 2 of the Complaint.
3. The Montgomery County Defendants admit the allegations contained in Paragraph 3 of the Complaint.
4. In response to the allegations contained in Paragraph 4 of the Complaint, the Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth

of said allegations, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.

5. The Montgomery County Defendants admit the allegations contained in Paragraph 5 of the Complaint.
6. The Montgomery County Defendants admit the allegations contained in Paragraph 6 of the Complaint.
7. The Montgomery County Defendants admit the allegations contained in Paragraph 7 of the Complaint.
8. The Montgomery County Defendants admit the allegations contained in Paragraph 8 of the Complaint.
9. The Montgomery County Defendants deny the allegations contained in Paragraph 9 of the Complaint.
10. The Montgomery County Defendants deny the allegations contained in Paragraph 10 of the Complaint.
11. In response to the allegations contained in Paragraph 11 of the Complaint, the Montgomery County Defendants deny said allegations except to admit that Defendants Plummer, Crosby, and Sealey were, at all times relevant, acting under color of state law and on behalf of Defendant Plummer.
12. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 12 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
13. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 13 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
14. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 14 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
15. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 15 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
16. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 16 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.

17. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 17 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
18. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 18 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
19. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 19 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
20. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 20 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
21. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 21 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
22. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 22 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
23. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 23 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
24. The Montgomery County Defendants deny the allegations contained in Paragraph 24 of the Complaint.
25. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 25 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
26. The Montgomery County Defendants admit the allegations contained in Paragraph 26 of the Complaint.
27. The Montgomery County Defendants lack of knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 27 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
28. The Montgomery County Defendants deny the allegations contained in Paragraph 28 of the Complaint.

29. The Montgomery County Defendants deny the allegations contained in Paragraph 29 of the Complaint.
30. The Montgomery County Defendants deny the allegations contained in Paragraph 30 of the Complaint.
31. The Montgomery County Defendants deny the allegations contained in Paragraph 31 of the Complaint.
32. The Montgomery County Defendants deny the allegations contained in Paragraph 32 of the Complaint, except to admit that Defendant Sealey ordered that Plaintiff be placed in a restraint chair.
33. The Montgomery County Defendants deny the allegations contained in Paragraph 33 of the Complaint, except to admit that, per Defendant Sealey's orders, a restraint chair was brought to the area of Plaintiff's cell.
34. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 34 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
35. The Montgomery County Defendants deny the allegations contained in Paragraph 35 of the Complaint, except to admit that Plaintiff was placed in a restraint chair.
36. The Montgomery County Defendants deny the allegations contained in Paragraph 36 of the Complaint, except to admit that Plaintiff was moved to cell MHD-131.
37. The Montgomery County Defendants deny the allegations contained in Paragraph 37 of the Complaint.
38. The Montgomery County Defendants deny the allegations contained in Paragraph 38 of the Complaint.
39. The Montgomery County Defendants deny the allegations contained in Paragraph 39 of the Complaint, except to admit that Jail Medic Connor Matlock responded to Plaintiff's cell.
40. The Montgomery County Defendants deny the allegations contained in Paragraph 40 of the Complaint.
41. The Montgomery County Defendants deny the allegations contained in Paragraph 41 of the Complaint.

42. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 42 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
43. The Montgomery County Defendants deny the allegations contained in Paragraph 43 of the Complaint.
44. The Montgomery County Defendants deny the allegations contained in Paragraph 44 of the Complaint.
45. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 45 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
46. The Montgomery County Defendants deny the allegations contained in Paragraph 46 of the Complaint.
47. The Montgomery County Defendants deny the allegations contained in Paragraph 47 of the Complaint, except to admit that Defendant Sealey has held the rank of Sergeant.
48. The Montgomery County Defendants deny the allegations contained in Paragraph 48 of the Complaint.
49. The Montgomery County Defendants deny the allegations contained in Paragraph 49 of the Complaint, except to admit that Defendant Sealey was promoted to the rank of Captain.
50. The Montgomery County Defendants deny the allegations contained in Paragraph 50 of the Complaint.
51. The Montgomery County Defendants deny the allegations contained in Paragraph 51 of the Complaint, except to admit that Captain Thomas Flanders and Detective Michael Sollenberger were terminated from their employment with the Montgomery County Sheriff's Office.
52. The Montgomery County Defendants deny the allegations contained in Paragraph 52 of the Complaint.
53. The Montgomery County Defendants deny the allegations contained in Paragraph 53 of the Complaint.
54. The Montgomery County Defendants admit the allegations contained in Paragraph 54 of the Complaint.
55. The Montgomery County Defendants deny the allegations contained in Paragraph 55 of the Complaint, except to admit that Defendant Crosby reviewed a videotape of cell MHD-131.

56. The Montgomery County Defendants deny the allegations contained in Paragraph 56 of the Complaint.
57. In response to Paragraph 57 of the Complaint, the Montgomery County Defendants admit that there is a dedicated video security camera in cell MHD-131. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations contained in Paragraph 57 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
58. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 58 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge. The Montgomery County Defendants further state that any standards set forth by the Ohio Department of Rehabilitation and Corrections speak for themselves.
59. The Montgomery County Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in Paragraph 59 of the Complaint, and as such, the Montgomery County Defendants deny said allegations for lack of knowledge.
60. The Montgomery County Defendants deny the allegations contained in Paragraph 60 of the Complaint.
61. The Montgomery County Defendants admit the allegations contained in Paragraph 61 of the Complaint.
62. The Montgomery County Defendants deny the allegations contained in Paragraph 62 of the Complaint.
63. The Montgomery County Defendants deny the allegations contained in Paragraph 63 of the Complaint.
64. The Montgomery County Defendants deny the allegations contained in Paragraph 64 of the Complaint.
65. The Montgomery County Defendants deny the allegations contained in Paragraph 65 of the Complaint.
66. The Montgomery County Defendants deny the allegations contained in Paragraph 66 of the Complaint.
67. The Montgomery County Defendants deny the allegations contained in Paragraph 67 of the Complaint.

68. The Montgomery County Defendants deny the allegations contained in Paragraph 68 of the Complaint.
69. The Montgomery County Defendants deny the allegations contained in Paragraph 69 of the Complaint.
70. The Montgomery County Defendants deny the allegations contained in Paragraph 70 of the Complaint.
71. The Montgomery County Defendants deny the allegations contained in Paragraph 71 of the Complaint.
72. The Montgomery County Defendants deny the allegations contained in Paragraph 72 of the Complaint, except to admit that Defendant Sealey was promoted to the rank of Captain.
73. The Montgomery County Defendants deny the allegations contained in Paragraph 73 of the Complaint.
74. The Montgomery County Defendants admit the allegations contained in Paragraph 74 of the Complaint.
75. The Montgomery County Defendants deny the allegations contained in Paragraph 75 of the Complaint.
76. The Montgomery County Defendants admit the allegations contained in Paragraph 76 of the Complaint.
77. The Montgomery County Defendants admit the allegations contained in Paragraph 77 of the Complaint. The Montgomery County Defendants further state that the quoted language in Paragraph 77 of the Complaint was contained in a memorandum from Defendant Crosby dated July 1, 2016.
78. The Montgomery County Defendants deny the allegations contained in Paragraph 78 of the Complaint.
79. The Montgomery County Defendants admit the allegations contained in Paragraph 79 of the Complaint. The Montgomery County Defendants further state that the quoted language in Paragraph 79 of the Complaint was contained in a memorandum from Defendant Crosby dated July 5, 2016.
80. The Montgomery County Defendants deny the allegations contained in Paragraph 80 of the Complaint.
81. The Montgomery County Defendants deny the allegations contained in Paragraph 81 of the Complaint.

82. In response to Paragraph 82 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
83. The Montgomery County Defendants deny the allegations contained in Paragraph 83 of the Complaint, except to admit that, at all times relevant, the Montgomery County Defendants were acting under color of state law and in the course of their employment.
84. The Montgomery County Defendants deny the allegations contained in Paragraph 84 of the Complaint.
85. The Montgomery County Defendants deny the allegations contained in Paragraph 85 of the Complaint.
86. In response to Paragraph 86 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
87. The Montgomery County Defendants deny the allegations contained in Paragraph 87 of the Complaint.
88. The Montgomery County Defendants deny the allegations contained in Paragraph 88 of the Complaint.
89. The Montgomery County Defendants deny the allegations contained in Paragraph 89 of the Complaint.
90. The Montgomery County Defendants deny the allegations contained in Paragraph 90 of the Complaint.
91. The Montgomery County Defendants deny the allegations contained in Paragraph 91 of the Complaint.
92. The Montgomery County Defendants deny the allegations contained in Paragraph 92 of the Complaint.
93. The Montgomery County Defendants deny the allegations contained in Paragraph 93 of the Complaint.
94. The Montgomery County Defendants deny the allegations contained in Paragraph 94 of the Complaint.

95. The Montgomery County Defendants deny the allegations contained in Paragraph 95 of the Complaint.
96. The Montgomery County Defendants deny the allegations contained in Paragraph 96 of the Complaint.
97. The Montgomery County Defendants deny the allegations contained in Paragraph 97 of the Complaint.
98. The Montgomery County Defendants deny the allegations contained in Paragraph 98 of the Complaint.
99. The Montgomery County Defendants deny the allegations contained in Paragraph 99 of the Complaint.
100. In response to Paragraph 100 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
101. The Montgomery County Defendants deny the allegations contained in Paragraph 101 of the Complaint.
102. The Montgomery County Defendants deny the allegations contained in Paragraph 102 of the Complaint.
103. The Montgomery County Defendants deny the allegations contained in Paragraph 103 of the Complaint.
104. The Montgomery County Defendants deny the allegations contained in Paragraph 104 of the Complaint.
105. The Montgomery County Defendants deny the allegations contained in Paragraph 105 of the Complaint.
106. The Montgomery County Defendants deny the allegations contained in Paragraph 106 of the Complaint.
107. The Montgomery County Defendants deny the allegations contained in Paragraph 107 of the Complaint.
108. The Montgomery County Defendants deny the allegations contained in Paragraph 108 of the Complaint.

109. The Montgomery County Defendants deny the allegations contained in Paragraph 109 of the Complaint.
110. The Montgomery County Defendants deny the allegations contained in Paragraph 110 of the Complaint.
111. The Montgomery County Defendants deny the allegations contained in Paragraph 111 of the Complaint.
112. The Montgomery County Defendants deny the allegations contained in Paragraph 112 of the Complaint, except to admit that, at all times relevant, the Montgomery County Defendants were acting under color of state law.
113. The Montgomery County Defendants deny the allegations contained in Paragraph 113 of the Complaint.
114. The Montgomery County Defendants deny the allegations contained in Paragraph 114 of the Complaint.
115. In response to Paragraph 115 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
116. The Montgomery County Defendants deny the allegations contained in Paragraph 116 of the Complaint.
117. The Montgomery County Defendants deny the allegations contained in Paragraph 117 of the Complaint.
118. The Montgomery County Defendants deny the allegations contained in Paragraph 118 of the Complaint.
119. The Montgomery County Defendants deny the allegations contained in Paragraph 119 of the Complaint.
120. The Montgomery County Defendants deny the allegations contained in Paragraph 120 of the Complaint.
121. The Montgomery County Defendants deny the allegations contained in Paragraph 121 of the Complaint.
122. The Montgomery County Defendants deny the allegations contained in Paragraph 122 of the Complaint.

123. The Montgomery County Defendants deny the allegations contained in Paragraph 123 of the Complaint.
124. In response to Paragraph 124 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
125. The Montgomery County Defendants deny the allegations contained in Paragraph 125 of the Complaint.
126. The Montgomery County Defendants deny the allegations contained in Paragraph 126 of the Complaint.
127. The Montgomery County Defendants deny the allegations contained in Paragraph 127 of the Complaint.
128. The Montgomery County Defendants deny the allegations contained in Paragraph 128 of the Complaint.
129. The Montgomery County Defendants deny the allegations contained in Paragraph 129 of the Complaint.
130. The Montgomery County Defendants deny the allegations contained in Paragraph 130 of the Complaint.
131. The Montgomery County Defendants deny the allegations contained in Paragraph 131 of the Complaint.
132. The Montgomery County Defendants deny the allegations contained in Paragraph 132 of the Complaint.
133. In response to Paragraph 133 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
134. The Montgomery County Defendants deny the allegations contained in Paragraph 134 of the Complaint.
135. The Montgomery County Defendants deny the allegations contained in Paragraph 135 of the Complaint.
136. The Montgomery County Defendants deny the allegations contained in Paragraph 136 of the Complaint.

137. The Montgomery County Defendants deny the allegations contained in Paragraph 137 of the Complaint.
138. In response to Paragraph 138 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
139. The Montgomery County Defendants deny the allegations contained in Paragraph 139 of the Complaint.
140. The Montgomery County Defendants deny the allegations contained in Paragraph 140 of the Complaint.
141. The Montgomery County Defendants deny the allegations contained in Paragraph 141 of the Complaint.
142. The Montgomery County Defendants deny the allegations contained in Paragraph 142 of the Complaint.
143. The Montgomery County Defendants deny the allegations contained in Paragraph 143 of the Complaint.
144. The Montgomery County Defendants deny the allegations contained in Paragraph 144 of the Complaint.
145. In response to Paragraph 145 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
146. The Montgomery County Defendants deny the allegations contained in Paragraph 146 of the Complaint.
147. The Montgomery County Defendants deny the allegations contained in Paragraph 147 of the Complaint.
148. The Montgomery County Defendants deny the allegations contained in Paragraph 148 of the Complaint.
149. In response to Paragraph 149 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
150. The Montgomery County Defendants deny the allegations contained in Paragraph 150 of the Complaint.

151. The Montgomery County Defendants deny the allegations contained in Paragraph 151 of the Complaint.
152. The Montgomery County Defendants deny the allegations contained in Paragraph 152 of the Complaint.
153. The Montgomery County Defendants deny the allegations contained in Paragraph 153 of the Complaint.
154. In response to Paragraph 154 of the Complaint, to the extent said paragraph reincorporates other paragraphs of the Complaint, all defenses, denials, and averments by lack of knowledge to same are specifically incorporated by reference herein.
155. The Montgomery County Defendants deny the allegations contained in Paragraph 155 of the Complaint.
156. The Montgomery County Defendants deny the allegations contained in Paragraph 156 of the Complaint.
157. The Montgomery County Defendants deny the allegations contained in Paragraph 157 of the Complaint.
158. The Montgomery County Defendants deny the allegations contained in Paragraph 158 of the Complaint.
159. The Montgomery County Defendants deny the allegations contained in Paragraph 159 of the Complaint.
160. The Montgomery County Defendants deny the allegations contained in Paragraph 160 of the Complaint, and the Montgomery County Defendants further deny that Plaintiff is entitled to the relief sought in the prayer for relief that follows Paragraph 160.

SECOND DEFENSE

161. The Montgomery County Defendants enjoy qualified immunity under federal law.

THIRD DEFENSE

162. The Montgomery County Defendants enjoy state law immunity under Ohio Revised Code Chapter 2744.

FOURTH DEFENSE

163. Plaintiff fails to state a claim against the Montgomery County Defendants upon which relief may be granted.

FIFTH DEFENSE

164. All or part of the Complaint is barred by the applicable statute of limitations and/or common law doctrine of laches.

SIXTH DEFENSE

165. The Montgomery County Defendants deny that force was used on Plaintiff. Alternatively, at all material times, any force that was used was reasonable and necessary under the circumstances at issue in this case.

SEVENTH DEFENSE

166. The Montgomery County Defendants may have acted with lawful privilege.

EIGHTH DEFENSE

167. The Montgomery County Defendants did not perform any wrongful acts, including but not limited to any negligent, knowing, or purposeful acts with malicious purpose, in bad faith, intentionally, recklessly, willfully, or wantonly.

NINTH DEFENSE

168. Plaintiff failed to exhaust any applicable administrative remedies.

TENTH DEFENSE

169. Plaintiff's claims for punitive damages, which the Montgomery County Defendants deny have merit, are unconstitutional, and are subject to bifurcation and any applicable statutory caps under Ohio law.

ELEVENTH DEFENSE

170. Plaintiff's alleged damages were not directly, proximately, or actually caused by any alleged wrongdoing of the Montgomery County Defendants.

TWELFTH DEFENSE

171. Plaintiff's claims are barred by an intervening and superseding cause.

THIRTEENTH DEFENSE

172. Any injuries or damages allegedly sustained by Plaintiff were proximately caused by acts or omissions of third parties over whom the Montgomery County Defendants had no right or authority to control and for whom the Montgomery County Defendants are not liable.

FOURTEENTH DEFENSE

173. Liability may be apportioned among non-parties.

FIFTEENTH DEFENSE

174. Pursuant to Ohio Revised Code Section 2307.23(C), a specific percentage of the alleged tortious conduct that proximately caused the alleged injury or loss to person or property is attributable to one or more persons from whom the Plaintiff does not seek recovery in this action.

SIXTEENTH DEFENSE

175. The Court may not have personal jurisdiction over the Montgomery County Defendants.

SEVENTEENTH DEFENSE

176. Plaintiff may not have standing, capacity to sue, and/or may not be the real party in interest.

EIGHTEENTH DEFENSE

177. Plaintiff's claims may be barred in total or in part under the doctrines of waiver, res judicata, or estoppel.

NINETEENTH DEFENSE

178. Any and all claims for damages may be limited under Ohio Revised Code Section 2744.05.

TWENTIETH DEFENSE

179. The Montgomery County Defendants acted reasonably, in good faith, and did not violate clearly established law.

TWENTY-FIRST DEFENSE

180. The Complaint failed to join parties and claims required to be joined under Federal Rule of Civil Procedure 19.

TWENTY-SECOND DEFENSE

181. Some or all of the claimed damages are barred due to failure to mitigate.

TWENTY-THIRD DEFENSE

182. The Plaintiff may have failed to comply with applicable statutes and/or regulations regarding the assertion of the Plaintiff's claims.

TWENTY-FOURTH DEFENSE

183. Any recovery by the Plaintiff, which is denied, is subject to the provisions and limitations of Chapter 2315 of the Ohio Revised Code.

TWENTY-FIFTH DEFENSE

184. Plaintiff's claims are barred as a result of Plaintiff's own criminal conduct.

TWENTY-SIXTH DEFENSE

185. Plaintiff's action is barred by the doctrine set forth in *Heck v. Humphrey*, 512 U.S. 477 (1994).

TWENTY-SEVENTH DEFENSE

186. At no time material hereto did the Montgomery County Defendants act with deliberate indifference to any federally protected rights of the Plaintiff.

TWENTY-EIGHTH DEFENSE

187. At no time material hereto did there exist an unconstitutional policy, practice, or custom on the part of the Montgomery County Board of Commissioners, the Montgomery County Sheriff's Office, or Defendant Plummer.

TWENTY-NINTH DEFENSE

188. The Montgomery County Defendants reserve the right and give notice that this Answer may be amended as additional facts become known during the pendency of this litigation.

WHEREFORE, having fully answered Plaintiff's Complaint, Defendants Montgomery County Board of Commissioners, Montgomery County Sheriff Phil Plummer, Captain Judith L. Sealey, and Captain Chuck Crosby respectfully request that Plaintiff's Complaint be dismissed with prejudice, that Judgment be entered in the Montgomery County Defendants' favor, and that the Montgomery County Defendants recover all costs and attorney's fees from Plaintiff.

Respectfully submitted,

MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

By: /s/Joseph D. Saks
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County Board of Commissioners,
Montgomery County Sheriff Phil Plummer,
Captain Judith L. Sealey, and Captain Chuck
Crosby

JURY DEMAND

The Montgomery County Defendants, through counsel, hereby request a jury to hear all triable issues in this matter.

MATHIAS H. HECK, JR.
PROSECUTING ATTORNEY

By: /s/Joseph D. Saks
Joseph D. Saks

CERTIFICATE OF SERVICE

I certify that on the 21st day of November, 2016, I electronically filed the foregoing with the Clerk of Courts using the CM/ECF system, which will send notification of such filing to CM/ECF participants.

/s/Joseph D. Saks
Joseph D. Saks (0088082)
Assistant Prosecuting Attorney